THE HON'BLE SRI JUSTICE V.V.S.RAO
AND
THE HON'BLE SRI JUSTICE G.V.SEETHAPATHY

WRIT PETITION No.19246 of 2002

15.6.2007

Between:
Sri Raja Madhuveeti Yarram Raju, S/o.Yarram Raju

… Petitioner

AND

The District Collector-cum-Agent to the Government,
East Godavari District at Kakinada And others

… Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO
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ORDER:

The petitioner's father was appointed as Mokasadar of lands covered in Nellipudi and Kuramgondi villages of Gangavaram Mandal in East Godavari District, under sanad bearing I.N.R.D.S.12/AG/07, dated 03.8.1907 approved under G.O.Ms.No.1230, dated 10.7.1907. Petitioner alleges that by virtue of registered Will dated 18.8.1988 executed by his father during his life-time, he got absolute rights as Mokasadar of the said lands. In 1994, fourth respondent filed LTRP No.4 of 1994 before the third respondent for eviction of the petitioner on the ground that the lands belong to tribals. The third respondent dismissed the same on 02.6.1994 observing that there is no evidence to establish that schedule lands were under the enjoyment of tribals at any time. Again, on a complaint made by some of the ryots, fourth respondent filed cases being LTRP Nos.80, 97 and 104/2002 before the third respondent for evicting the petitioner and others from the lands. Petitioner made several representations to the respondents 1 and 3 not to take cognizance of those cases, as the lands will not come under the purview of Andhra Pradesh Scheduled Area Land Transfer Regulation 1959, as amended by Regulation I of 1970 or Andhra Pradesh (Andhra Area) Abolition of Estates and Conversion into Ryotwari Act, 1948, in vain. Aggrieved by the same, petitioner filed the instant writ petition in effect seeking a writ of prohibition restraining the respondents to proceed with the cases. The main contention of the petitioner is that the order of the third respondent in LTRP No.4 of 1994 operates as *res judicata* and that the third respondent cannot be permitted to proceed with the cases on the

ground of jurisdiction.

After hearing learned Counsel for petitioner and learned Government Pleader for Social Welfare, we are convinced that as the writ petition is filed against the notice, the same cannot be entertained at this stage. It is axiomatic that ordinarily a writ petition against the show cause notice would not lie and even questions as to jurisdiction or inherent lack of jurisdiction of the notice issuing authority have to be raised by them before such authority (see **Special Director v Mohd. Ghulam Ghouse**[1]). In view of this, without expressing any opinion on the merits of the case, giving liberty to the petitioner to raise all the grounds before the first respondent, we dispose of the writ petition, directing the first respondent to dispose of the matter within a period of eight weeks from the date of receipt of a copy of this order. It shall be open to the petitioner to place all the material before the third respondent. As this Court passed orders of *status quo* on 21.10.2002, the same shall continue till the proceedings before the third respondent are finalized.

The writ petition, with the above observations and directions, is disposed of. No costs.

(**V.V.S.RAO,J**)

(**G.V.SEETHAPATHY,J**)

June 15, 2007.
NOTE:
Dispatch order copy by
18.6.2007.
(By order)
YS9

[1] (2004) 3 SCC 440